SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE ,AT BILASPUR CHHATTISGARH

SECOND APPEAL NO. 379 /2005.

SECOND APPEAL UNDER SECTION 100 OF THE

CODE OF CIVIL PROCEDURE

APPELLANTS DEFENDANTS :

1. Babulal Age about 67 years Son of Jhadu Ram Sahu R/O Village Sarsopuri ,Tah. & Distt. Dhamtari C.G.
2. Shyam Sundar, Age about 67 years, Son of Sudarsham R/o Village Kukrel Tahsil Nagari Distt. Dhamtari C.G.

P.R. No. 1730/05
Presented by Shri Amit Verma
dated 20.7.08

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VERSUS

RESPONDENTS PLAINTIFFS :

1. Shankar Singh Age about 67 years Son of Amar Singh R/o Kukrel Tahsil Nagari Distt.Dhamtari C.G.

DEFENDANT :

2. State of Chhattisgarh Through : Collector :Dhamtari District Dhamtari (C.G.).

CLAIM IN ORIGINAL SUIT VALUED AT RS. 30,000/-

FOR DECLARATION OF TITLE AND PARMANENT INJUCTION

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक S.A.No.379/ **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

25/01/2007 :

Shri Anand Mohan Tiwari, counsel for the appellants.

Shri Akhil Agrawal, Panel Lawyer for the State/respondent No.2.

Heard on admission.

The appellants/defendants are aggrieved by the reversal of the judgment and decree of dismissal of suit passed in Civil Suit No. 9-A/97 by the First Civil Judge Class-I, Dhamtari in Civil Appeal No. 12-A/2004.

Brief facts are that admittedly the respondent-plaintiff had purchased Khasra No.116/2 area 0.83 acres and Khasra No.117/2 area 0.46 acres along with other lands from the defendant No.1 vide registered sale deed on 14-12-1978 and obtained possession. During Bandobast Khasra No. of 116/2 was changed as Khasra No.243 area 0.70 acres and Khasra No.117/2 was changed as Khasra No.246 area 0.42 acres. A new Khasra No.245 area 0.30 acres was created during Bandobast. The lands sold by the appellant/defendant were clearly demarcated in the sale deed. The appellant/defendant No.1 taking advantage of the above situation was trying to sell land Khasra No.245 area 0.30 acre to the appellant/defendant No.2. On these pleadings, declaration of title over the entire area of 1.29 acres purchased from appellant/defendant No.1 and permanent injunction to restrain the appellant/defendant No.1 from alienating any part of the suit land was prayed.

The learned trial Judge held that the appellant/defendant No.1 had title over land Khasra No.245 area 0.30 acre and was entitled to sell it and the respondent/plaintiff was the owner only of Khasra No.243 and 246 which was much less in area than sold by the appellant/defendant

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

No.1 to the respondent/plaintiff. On these premises, the suit was dismissed.

In Civil Appeal No.12-A/2004 the learned Additional District Judge, Dhamtari considered in para-7 of the judgment that during consolidation proceedings, Khasra number of the aforesaid land was changed as Khasra No.243 area 0.83 acre and Khasra No.246 area 0.46 acre. It is pertinent to note that in the registered sale deed Ex.P/1 the description of the land on the four sides was given. Spot inspection was done by the Revenue Inspector on 14-12-1996 vide report Ex.P/6 who also found that the land in which the respondent/plaintiff was in possession completely matched with the description and boundaries of the lands given in the sale deed dated 14-12-1978. The learned First Appellate Court on a proper appreciation of the evidence on record while reversing the decree passed by the lower Court declared that the respondent/plaintiff was the owner of 1.29 acres of land of New Khasra Nos.243, 245 & 246 {old Khasra Nos.116 & 117} on the basis of sale deed dated14-12-1978 and the appellant/defendant No.1 was the owner only of the remaining portion. The appellant/defendant was restrained from interfering with the possession of the respondent/plaintiff over land Khasra Nos. 243, 245 and 246 in area 1.29 acres. The finding recorded by the First Appellate Court is thus purely a finding of fact.

I have perused the impugned judgment as also the record of the lower Court. I am in complete agreement with the finding of fact recorded by the first Appellate Court. In my considered opinion, no substantial question of law is involved in this appeal.

Consequently, this appeal is dismissed at the stage of admission. There shall be no order as to costs

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मामला क्रमांक ..... S.A.No.379/ **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	In view of above, the applications M.(C.)P.No.291/2006, I.A.No.739/2006 for out of turn hearing & I.A.No.740/2006 for out of turn hearing stand disposed of. **Sd/-** **Dilip Raosaheb Deshmukh** **Judge**	